

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

UNITED STATES OF AMERICA,

Case # 17-CR-6094-FPG

v.

DECISION AND ORDER

JESUS RIVERA,

Defendant.

---

**INTRODUCTION**

On June 27, 2017, the Government charged Defendant Jesus Rivera, among others, with a violation of 21 U.S.C. § 846 in a one-count Indictment. ECF No. 22. Specifically, the Government alleges that Rivera took part in a narcotics conspiracy with two codefendants. *Id.* The same day, the Court referred the case to United States Magistrate Judge Marian W. Payson pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (b)(1)(B). ECF No. 28.

On May 11, 2018, Rivera filed an omnibus motion in which he moved to suppress statements he made to a law enforcement officer while he was transported to Rochester, New York. ECF No. 94 at 5-6; ECF No. 131 at 1-3. Judge Payson filed a Report & Recommendation (R&R) on September 19, 2018, recommending that the Court deny Rivera's motion. ECF No. 131 at 1, 6. Rivera has not filed objections to the R&R. For the reasons that follow, the Court accepts Judge Payson's R&R in its entirety and Rivera's motion to suppress his statements is DENIED.

**DISCUSSION**

Section 636 explains the jurisdiction and duties of magistrate judges and their interplay with those of district judges. As relevant here, district judges may "designate a magistrate judge to hear and determine any pretrial matter pending before the court, except," among others, "a

motion . . . to suppress evidence in a criminal case.” 28 U.S.C. § 636(b)(1)(A). District judges may also “designate a magistrate judge to . . . submit to a [district judge] proposed findings of fact and recommendations for the disposition . . . of any motion excepted in subparagraph (A).” 28 U.S.C. § 636(b)(1)(B). A magistrate judge must then file these “proposed findings of fact and recommendations for disposition” with the court and mail copies to all parties. 28 U.S.C. § 636(b)(1)(C). A party may object within fourteen days; if so, the district judge is required to review the portion of any report and recommendation to which a party objects *de novo*. *Id.*

When a party does not object, however, the district judge is not required to review the findings and recommendations of the magistrate judge. *Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting § 636(b)(1)(C), intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Harrison*, No. 15 CR 00389 (SJ) (VMS), 2016 WL 1070816, at \*1 (E.D.N.Y. Mar. 14, 2016) (“The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed.” (citing *Arn*, 474 U.S. at 150)).

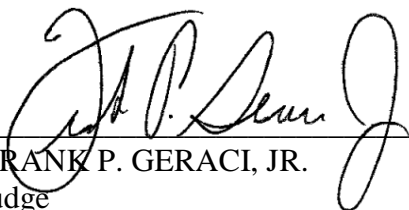
Here, Rivera was required to file objections to the R&R within fourteen days after it was filed, or by October 3, 2018. *See* Fed. R. Crim. P. 45(a)(1). He did not file objections in that period and did not request an extension of time to object. Consequently, the Court accepts Judge Payson’s R&R in its entirety and Rivera’s motion is denied.

## CONCLUSION

For the reasons stated, the Court accepts Judge Payson's R&R, ECF No. 131, in its entirety, and Rivera's motion to suppress statements, ECF No. 94, is DENIED.

IT IS SO ORDERED.

DATED:       October 12, 2018  
              Rochester, New York



---

HON. FRANK P. GERACI, JR.  
Chief Judge  
United States District Court